

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ZEKI KOCHISARLI,

Plaintiff,

- against -

MEMORANDUM & ORDER

02-CV-4320 (DRH) (MLO)

HAROLD J. "HAL" TENOSO, ALAN
MORRISON HAY, FRANCES GRIFFIN,
FMB HOLDINGS LLC,

Defendants.

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APPEARANCES:

QUADRINO & SCHWARTZ, P.C.

Attorneys for Plaintiff

666 Old Country Road, 9th Floor

Garden City, NY 11530

By: Harold J. Levy, Esq.

TRENK, DiPASQUALE, WEBSTER, DELLA FERA & SODONO P.C.

Attorneys for Defendant

100 Executive Drive, Suite 100

West Orange, NJ 07052

By: Richard D. Trenk, Esq.,
Henry M. Karwowski, Esq.

HURLEY, Senior District Judge:

By Memorandum & Order dated April 24, 2008, this Court found that Defendant Harold J. "Hal" Tenoso ("Tenoso") was entitled to recover from Plaintiff Zeki Kochisarli ("Kochisarli") the amount of \$773,671.63, representing principal, interest through July 24, 2007 and attorneys' fees and disbursements through June 30, 2007. The Court directed that Tenoso submit an application for attorneys' fees and disbursements incurred after June 30, 2007 and gave Kochisarli five (5) days to object thereto. The parties were also directed to address the affect of

the Court's order authorizing Thaler & Gertler LLP to disburse \$350,000.00 to Tenoso and whether a partial judgment should be entered.

Tenoso had filed an application seeking \$18,750.00 in additional attorneys' fees and \$2,524.68 in additional disbursements. Having reviewed the application the Court finds that Tenoso is entitled to recover an additional \$17,272.50 in reasonable attorneys' fees and \$2,524.68 in disbursements for an additional \$19,797.18. The Court deducted \$1,477.50 from the amount of attorneys' fees sought because the travel time on July 16, 2007 was billed at the full authorized rates rather than one-half the authorized rates. *See* Memorandum & Order dated April 24, 2008 at p. 17. Thus, Tenoso is entitled to recover the amount of \$793,468.81 (\$773,671.63 plus \$19,797.18) in principal, interest, attorneys' fees and disbursements.

Pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Court finds there is no just reason to delay entry of a partial judgment on Kochisarli's claim against Tenoso and Tenoso's claim against Kochisarli while Kochisarli pursues a default judgment against the remaining defendants, to wit: Alan Morrison Hay, Frances Griffin and FMB Holdings LLC. Tenoso's claim against Kochisarli is separable from and independent of Kochisarli's unresolved claims against the other defendants. Also Tenoso's claim, including the amount of damages, has been fully determined. Having established his right to collect on the note, Tenoso has an interest in a prompt enforceable judgment.

Accordingly, it is hereby **Ordered** that:

(1) Plaintiff Zeki Kochisarli recover nothing from Defendant Harold J. Tenoso and that Defendant Harold J. Tenoso recover from the Plaintiff Zeki Kochisarli the amount of Seven Hundred Ninety Three Thousand Four Hundred Sixty-Eight and 81/100 (\$793,468.81) Dollars

minus the Three Hundred Fifty Thousand (\$350,000.00) Dollars already received for a total of Four Hundred Forty-Three Thousand Four Hundred Sixty-Eight and 81/100 (\$443,468.81) Dollars and, there being no just reason for delay, that partial judgment be entered therefor;

(2) Thaler & Gertler LLP be and hereby is authorized and directed to disburse the balance (including all accrued interest) from the proceeds of the attorney trust account which it is holding concerning this matter, payable to Trenk, DiPasquale, Webster, Della Fera & Sodono, P.C. , counsel for Harold Tenoso;

(3) Within ten (10) days of receipt of the funds from Thaler & Gertler LLP, Tenoso shall file an appropriate satisfaction for the amount so received; and

(4) Default judgment is hereby entered against Defendants Alan Morrison Hay, Frances Griffin and FMB Holdings LLC and this action is respectfully REFERRED to United States Magistrate Judge Michael L. Orenstein pursuant to 28 U.S.C. Section 636(b)(3) for an inquest on damages and it is further ORDERED that the scope of the foregoing reference shall be deemed to encompass such additional authority as reasonable or necessary to perform the foregoing duties and as is not inconsistent with the Constitution and laws of the United States.

SO ORDERED

Dated: Central Islip, New York
May 22, 2008

/s/ _____
Denis R. Hurley
Senior District Judge